

January 25, 2006

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Case No. A-823-812  
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§ 751(b) Changed-Circumstances Administrative Review  
Office of Policy  
**PUBLIC DOCUMENT**

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**DELIVERY BY HAND**

Secretary of Commerce  
U.S. Department of Commerce  
Attn: Import Administration  
Central Records Unit, Room 1870  
14th Street and Constitution Avenue, N.W.  
Washington, DC 20230

Attn: Mr. Lawrence Norton; Ms. Shauna Lee-Alaia

**Re: Carbon and Certain Alloy Steel Wire Rod From Ukraine**

Dear Mr. Secretary:

On behalf of Gerdau Ameristeel, Keystone Consolidated Industries, Inc., and ISG Georgetown Inc., Petitioners in the underlying investigation and domestic producers of carbon and certain alloy steel wire rod ("Petitioners"), and in accordance with the Department's January 18, 2006 notice of opportunity to submit additional comments in this review, 71 Fed. Reg. 2994 (Jan. 18, 2006), we present the following additional comments concerning Ukraine's status as a non-market economy country.

Like any administrative proceeding, this changed circumstances review must be decided on the record evidence that is before the Department. The record evidence that has been presented on the record of this review by the interested parties in comments presented on July

11, 2005 and August 31, 2005, unequivocally demonstrate that while Ukraine has made important progress, it has not yet become a market economy.

The record evidence and analysis amply demonstrate that while Ukraine has begun the process of converting its economy into one that operates on market principles, it has not yet achieved that goal. Events since these submissions have served only to underscore the volatile nature of economic and political events in Ukraine, and to further support a prudent determination that Ukraine is not yet a market economy country.

With parliamentary elections looming on March 26, 2006, whether Ukraine will continue its ongoing efforts transform itself into a market economy country remains uncertain. Indeed, with the March 26, 2006 elections, the basic nature of Ukraine's government will be transformed, from one with a strong president to that of a parliamentary republic in which the president's office is significantly weakened. See Financial Times, Chain of Events Leaves Yushchenko Looking Shaky (Jan. 12, 2006) (Exhibit 1). Whether the coming fundamental political change will result in a republic that continues the challenging and difficult process of transforming itself into a market-based economy, or a republic whose economy remains rooted in a past of state controls and crippled by continued corruption and cronyism, remains to be seen. With that transformation comes the very real prospect that Viktor Yanukovich, the pro-Russian politician who was voted out of office and replaced by President Yushchenko at the time of the Orange Revolution, will return to power. Whether some or all of the reforms begun under the Yushchenko administration will continue, be halted, or reversed, then, is not known.

Other problems exacerbate Ukraine's tumultuous political and economic situation. In addition to substantial political volatility, Ukraine's economy is subject to extraordinary shocks

over the coming months as continued issues related to the supply of natural gas from Russia are settled. The recent upheaval surrounding Russia's strong-arm tactics to force increases in the price of Ukraine's natural gas threatens Ukraine's economic stability, and raises the prospect that the Ukrainian government will pull away from difficult work required to allow market economy forces to determine prices and costs in the country.

Even Ukraine's President, Victor Yushchenko, recognizes the currently unstable political and social situation existing in Ukraine. On January 23, 2006, President Yushchenko proposed a plan "to stabilize the political and social situation in Ukraine." See Official Website of President of Ukraine, President offers stabilization plan (Jan. 23, 2006) (Exhibit 2). Central to his plan was the proposal that "the government and parliament should pass a moratorium on all decisions which might undermine stability in the country." Id. This general statement provides a direct acknowledgement that Ukraine's political and economic situation presently is unstable, and reflects a willingness if not the intention to move away from political and economic further liberalization, in the name of preserving stability in Ukraine. This intention, while arguably reflecting the exigent circumstances existing in Ukraine today, is inconsistent with a market-based economy.

As Ukraine continues to sort out the most fundamental elements of its political and economic structure – the form of government, the extent to which fundamental industries and commodities such as natural gas will remain state-controlled, and the like – graduation to market economy status is not supported by the record evidence and would be premature. The record evidence upon which the Department's determination in this matter must rest clearly shows that

Ukraine remains a non-market economy, and that graduation to market-economy status is not warranted..

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul Rosenthal". The signature is fluid and cursive, with the first name "Paul" and last name "Rosenthal" clearly distinguishable.

PAUL C. ROSENTHAL  
ADAM H. GORDON

Counsel to Petitioners

# **EXHIBIT 1**

# Chain of events leaves Yushchenko looking shaky

A dispute with parliament exposes weaknesses that could damage the Ukrainian president in March elections, writes Tom Warner

The Ukrainian parliament's vote on Tuesday to sack the government of Yuri Yekhanurov was unexpected, and yet absolutely predictable.

Mr Yekhanurov and his ministers were confident their opponents did not have enough votes. Only a last-minute turn by the parliament's speaker, Volodymyr Lytvyn, who kept his cards close to his chest, secured the majority that opposition groups needed to dismiss the cabinet.

When news reached Viktor Yushchenko, the president, on a visit to Kazakhstan, he threatened to dissolve the parliament, which has only two months left of its term before elections in March. Then he thought better of it and had his media service retract the comment.

Yesterday Mr Yushchenko and Mr Yekhanurov struck a deal, saying they would challenge the validity of the vote, although the only body that could hear such a challenge, the Constitutional Court, is without a quorum.

Their opponents call it a coalition either with Yulia Tymoshenko or with Yulia Tymoshenko doesn't matter



President Yushchenko in Kazakhstan where he met his Russian counterpart, Vladimir Putin, yesterday. Both leaders pledged to stand by the agreement on gas prices. Reuters

— is very real.” Mr Yushchenko's situation was pre-ordained by a promise he made just over a year ago, as the Orange Revolution was winding to a close.

His opponents, who still formally held power, refused to accept new safeguards against vote-rigging, unless he supported changes to the constitution that would give them the possibility of returning to power, if they won this year's parliamentary elections. Under the previous system, the president formed the government, which took effect on January 1 and some of which do not take effect until after March, turn the country into a parliamentary republic. The president loses most of his powers, as the parliament takes over the role of

forming the government. Mr Yushchenko's opponent at the last election, Viktor Yanukovich, and Russia, which strongly backed him, are looking forward to potential revenge in March. Mr Yushchenko's presidency has been haunted by that prospect from its first day. He soon began to argue that he agreed to the constitutional changes under duress, and that the hasty

voting procedure used to adopt them was illegal. But he decided that trying to repeal the changes would cause too much anger in parliament and would threaten his ability to push through other reforms.

He was weakened further in September, when he sacked Ms Tymoshenko and was forced to make concessions to Mr Yanukovich in order to get her replacement.

## MOLDOVA DISPUTE

Russia has cut off gas deliveries to Moldova since January 1 amid a price dispute between the two countries that has renewed concern over Moscow's reliability as an energy supplier, writes Sarah Laitner in Brussels.

Gazprom, Russia's state-controlled gas company, cut supplies after the former Soviet state rejected a sharp price rise. The stoppage was overshadowed by Russia's move on the same day to cut gas deliveries to Ukraine that led to falls in western European supplies through the transit pipeline across Ukraine.

Moscow and Kiev struck a deal last week to end the stand-off.

Neighbouring Ukraine was supplying Moldova with enough gas to meet the shortfall, a Moldovan official said yesterday.

Genadii Abashin, director of the national Moldova gas company, was reported as saying it was considering handing an additional stake to Gazprom to help reach a deal. Gazprom already has a majority stake.

Mr Yekhanurov confirmed. Then Russia turned up the heat by demanding to change the terms of its natural gas supplies. Mr Yushchenko called the deal a good compromise, but parliament called it weak and corrupt and used it to sack Mr Yekhanurov. The result is that Mr Yushchenko is left looking as if he is losing control, not just of the government, but of his country's political future.

The danger is not only that his opponents will try to capitalise on the turmoil but also that Ukrainians who supported the Orange revolution will turn away from the president and not vote in the elections.

## EUROPE

# Kiev turmoil raises more doubts over gas deal

By Neil Buckley in Moscow  
and Tom Warner in Kiev

The sacking of Ukraine's government has raised new questions over last week's agreement with Russia on gas prices, already starting to look fragile only days after it was signed.

Analysts say the framework deal reached on January 4 leaves many questions unresolved. Its reliance on

cheap gas from central Asian states, mostly Turkmenistan, to offset a more than four-fold increase in the price of Russian gas for Ukraine, could be vulnerable to attempts by those states to raise their own prices.

Few expect the gas deal to be reopened before Ukrainian parliamentary elections on March 26. But this week's parliamentary clashes in Kiev have made clear the

main opposition parties will fight the elections on a pledge to renegotiate the deal, obliging them to try to do so if they win.

That could lead to further uncertainties over Russian gas supplies to western Europe - 80 per cent of which travel across Ukraine - in the middle of Russia's presidency of the Group of Eight industrialised nations. Both sides sought yesterday

to stress they would stand by the agreement. Vladimir Putin, Russian president, met his Ukrainian counterpart, Viktor Yushchenko, for the first time since the gas dispute at the inauguration of Kazakh president Nursultan Nazarbayev. After the meeting, Mr Putin promised Gazprom, the state-controlled gas monopoly, would meet its commitments to Ukraine under a

deal he called an "absolutely reasonable and mutually profitable settlement". Mr Yushchenko said Ukraine "would not violate a single letter" of the agreement. But an apparently authentic text of the deal published on the website of Yulia Tymoshenko, Ukraine's former prime minister, has already exposed weaknesses. "It is an extremely vulnerable agreement," said

Vladimir Milov, head of the Institute for Energy Policy in Moscow and a former deputy Russian energy minister. "There are a lot of black holes and uncertainties that can only be resolved through further negotiations."

Though presented as a five-year deal, the price Ukraine will pay for gas (\$95 per thousand cubic metres), - up more than 50 per cent from last year - is fixed for only

six months. Only the transit fee Ukraine receives for shipping Russian gas across its territory is set for five years.

To reach the \$95 average price, gas bought from Gazprom for \$30/tem will be mixed with cheaper gas from Turkmenistan, Kazakhstan and Uzbekistan. Gas will be sold to Ukraine through a shadowy intermediary, RosUkrEnergo, half owned by Gazprom and half

by unidentified investors. Christopher Granville, chief strategist at United Financial Group, said the loser was Turkmenistan, set to sell gas to RosUkrEnergo at only \$30/tem in the first half and \$55 in the second. "We think this agreement is unlikely to be the final word," he said. "The most obvious risk is that the Turkmenians will try to raise their price."

# **EXHIBIT 2**



Official Website of President of Ukraine

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## President offers stabilization plan

21:17 23 JANUARY 2006



In his television address to the nation, Victor Yushchenko offered a four-point plan to stabilize the political and social situation in Ukraine.

He believes the government and parliament should pass a moratorium on all decisions which might undermine stability in the country.

"The President, his cabinet and the Verkhovna Rada should create conditions for fair elections and then create a majority which will eventually select a new government," he said.

They must also convene a constitutional court. Yushchenko urged the Verkhovna Rada to hold a swearing-in ceremony.

"Our parliamentarians must compromise to appoint these judges. I believe that society will appreciate such a move," he opined.

Commenting on parliamentary reform, the Head of State said, "As President of Ukraine, I respect the law and admit that the new constitution came into force on January 1, 2006, but I still think it is not ideal."

He reiterated that these constitutional changes had been passed stealthily and so "society should say what they think about the changes."

"After the election we will honestly discuss this reform," he promised.

Yushchenko believes the President, parliament and cabinet should establish a joint working group to formulate ways to harmonize all branches of government.

He also thinks the new parliament must immediately pass laws to define the status of the president, his cabinet and parliamentary opposition and to conduct a referendum. These laws are vital to complete the constitutional changes.

"A year ago I pledged to change government. The first step has been made. The election should assert these changes to completely ruin the old regime," he said and expressed confidence that democratic parties and blocs would win the election. "We need a team for victories and reforms. Each of you is a member of my team."

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**PUBLIC CERTIFICATE OF SERVICE**

**Carbon and Certain Alloy Steel Wire Rod from Ukraine**  
**Changed Circumstances Review**  
**DOC Case No. A-823-812**

I hereby certify that on January 25, 2006, copies of the foregoing public submission were served upon the following by hand delivery:

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